



Rep. Harry Osterman

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LRB096 21051 KTG 39161 a

1 AMENDMENT TO HOUSE BILL 6423

2 AMENDMENT NO. _____. Amend House Bill 6423 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Identification Act is amended by
5 adding Section 15 as follows:

6 (20 ILCS 2630/15 new)

7 Sec. 15. Notification of outstanding warrant. If the
8 existence of an outstanding arrest warrant is identified by the
9 Department in connection with the criminal history background
10 checks conducted pursuant to subsection (b) of Section 2-201.5
11 of the Nursing Home Care Act, the Department shall notify the
12 issuing jurisdiction of the following: (i) the existence of the
13 warrant and (ii) the name, address, and telephone number of the
14 licensed long term care facility in which the wanted person
15 resides.

1 Section 10. The Nursing Home Care Act is amended by
2 changing Sections 1-114.01 and by adding Section 3-808 as
3 follows:

4 (210 ILCS 45/1-114.01)

5 Sec. 1-114.01. Identified offender. "Identified offender"
6 means a person who has been convicted of any felony or
7 misdemeanor offense ~~listed in Section 25 of the Health Care~~
8 ~~Worker Background Check Act,~~ is a registered sex offender, or
9 has an outstanding arrest warrant is serving a term of parole,
10 ~~mandatory supervised release, or probation for a felony~~
11 ~~offense.~~

12 (Source: P.A. 94-163, eff. 7-11-05.)

13 (210 ILCS 45/3-808 new)

14 Sec. 3-808. Nursing home fraud, abuse, and neglect
15 prevention and reporting.

16 (a) Every licensed long term care facility that receives
17 Medicaid funding shall prominently display in its lobby, in its
18 dining areas, and on each floor of the facility information
19 approved by the Illinois Medicaid Fraud Control Unit on how to
20 report fraud, abuse, and neglect. In addition, information
21 regarding the reporting of fraud, abuse, and neglect shall be
22 provided to each resident at the time of admission and to the
23 resident's family members or emergency contacts, or to both the

1 resident's family members and his or her emergency contacts.

2 (b) Any owner or licensee of a long term care facility who
3 furnishes or fails to furnish goods or services to a resident
4 that, when based upon competent medical judgment and evaluation
5 within accepted standards of care, are determined to be harmful
6 to the resident or are of grossly inferior quality, is guilty
7 of a Class 4 felony.

8 (c) Any owner or licensee of a long term care facility
9 licensed under the this Act shall be responsible for the
10 collection and maintenance of any and all records required to
11 be maintained under this Section and any other applicable
12 provisions of this Act, and as a provider under the Illinois
13 Public Aid Code, and shall be responsible for compliance with
14 all of the disclosure requirements under this Section. All
15 books and records and other papers and documents that are
16 required to be kept, and all records showing compliance with
17 all of the disclosure requirements to be made pursuant to this
18 Section, shall be kept at the facility and shall, at all times
19 during business hours, be subject to inspection by any law
20 enforcement or health oversight agency or its duly authorized
21 agents or employees.

22 (d) Any report of abuse and neglect of residents made by
23 any individual in whatever manner, including, but not limited
24 to, reports made under Sections 2-107 and 3-610 of this Act, or
25 as provided under the Abused and Neglected Long Term Care
26 Facility Residents Reporting Act, that is made to an

1 administrator, a director of nursing, or any other person with
2 management responsibility at a long term care facility must be
3 disclosed to the owners and licensee of the facility within 24
4 hours of the report. The owners and licensee of a long term
5 care facility shall maintain all records necessary to show
6 compliance with this disclosure requirement.

7 (e) Any person with an ownership interest in a long term
8 care facility licensed by the Department must, within 30 days
9 of the effective date of this amendatory Act of the 96th
10 General Assembly, disclose the existence of any ownership
11 interest in any vendor who does business with the facility. The
12 disclosures required by this subsection shall be made in the
13 form and manner prescribed by the Department. Licensed long
14 term care facilities who receive Medicaid funding shall submit
15 a copy of the disclosures required by this subsection to the
16 Illinois Medicaid Fraud Control Unit. The owners and licensee
17 of a long term care facility shall maintain all records
18 necessary to show compliance with this disclosure requirement.

19 (f) Notwithstanding the provisions of Section 3-318 of this
20 Act, and in addition thereto, any person, owner, or licensee
21 who fails to keep and maintain, or fails to produce for
22 inspection, books and records, or fails to make the disclosures
23 required by this Section, is guilty of a Class A misdemeanor. A
24 second or subsequent violation of this Section shall be
25 punishable as a Class 4 felony.

26 (g) Any owner or licensee who files or causes to be filed a

1 document with false information with the Department, the
2 Department of Healthcare and Family Services, or the Illinois
3 Medicaid Fraud Control Unit or any other law enforcement
4 agency, or who makes a false statement or representation to the
5 Illinois Medicaid Fraud Control Unit or any law enforcement
6 agency, is guilty of a Class 4 felony.

7 Section 15. The Criminal Code of 1961 is amended by
8 changing Section 12-19 as follows:

9 (720 ILCS 5/12-19) (from Ch. 38, par. 12-19)

10 (Text of Section before amendment by P.A. 96-339)

11 Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care
12 Facility Resident.

13 (a) Any person or any owner or licensee of a long term care
14 facility who abuses a long term care facility resident is
15 guilty of a Class 3 felony. Any person or any owner or licensee
16 of a long term care facility who criminally neglects a long
17 term care facility resident is guilty of a Class 4 felony. A
18 person whose criminal neglect of a long term care facility
19 resident results in the resident's death is guilty of a Class 3
20 felony. However, nothing herein shall be deemed to apply to a
21 physician licensed to practice medicine in all its branches or
22 a duly licensed nurse providing care within the scope of his or
23 her professional judgment and within the accepted standards of
24 care within the community. Notwithstanding the provisions of

1 Section 5-4 of this Code, any owner or licensee of a long term
2 care facility, whether an individual, public or private
3 corporation, limited liability company, partnership,
4 unincorporated association, or any other entity doing business
5 in this State, may be prosecuted under this Section if the
6 conduct giving rise to the offense is performed by any agent of
7 the owner or licensee. It shall not be a defense to this
8 Section if the owner or licensee acted with organizational
9 indifference.

10 (b) Notwithstanding the penalties in subsections (a) ~~and~~
11 ~~(e)~~ and in addition thereto, if a licensee or owner of a long
12 term care facility or his or her employee has caused neglect of
13 a resident, the licensee or owner is guilty of a petty offense.
14 An owner or licensee is guilty under this subsection (b) only
15 if the owner or licensee failed to exercise reasonable care in
16 the hiring, training, supervising or providing of staff or
17 other related routine administrative responsibilities.

18 (c) (Blank) ~~Notwithstanding the penalties in subsections~~
19 ~~(a) and (b) and in addition thereto, if a licensee or owner of~~
20 ~~a long term care facility or his or her employee has caused~~
21 ~~gross neglect of a resident, the licensee or owner is guilty of~~
22 ~~a business offense for which a fine of not more than \$10,000~~
23 ~~may be imposed. An owner or licensee is guilty under this~~
24 ~~subsection (c) only if the owner or licensee failed to exercise~~
25 ~~reasonable care in the hiring, training, supervising or~~
26 ~~providing of staff or other related routine administrative~~

1 ~~responsibilities.~~

2 (d) For the purpose of this Section:

3 (1) "Abuse" means intentionally or knowingly causing
4 any physical or mental injury or committing any sexual
5 offense set forth in this Code.

6 (2) "Criminal neglect" means an act whereby a person
7 recklessly (i) performs acts that cause an elderly person's
8 or person with a disability's life to be endangered, health
9 to be injured, or pre-existing physical or mental condition
10 to deteriorate or creates the substantial likelihood of
11 injury or deterioration, or (ii) fails to perform acts that
12 he or she knows or reasonably should know are necessary to
13 maintain or preserve the life or health of an elderly
14 person or person with a disability, and that failure causes
15 the elderly person's or person with a disability's life to
16 be endangered, health to be injured, or pre-existing
17 physical or mental condition to deteriorate or creates the
18 substantial likelihood of injury or deterioration, or
19 (iii) abandons an elderly person or person with a
20 disability.

21 (3) "Neglect" means negligently failing to provide
22 adequate medical or personal care or maintenance, which
23 failure results in physical or mental injury or the
24 deterioration of a physical or mental condition.

25 (4) "Resident" means a person residing in a long term
26 care facility.

1 (5) "Owner" means the person who owns a long term care
2 facility as provided under the Nursing Home Care Act or an
3 assisted living or shared housing establishment under the
4 Assisted Living and Shared Housing Act.

5 (6) "Licensee" means the individual or entity licensed
6 to operate a facility under the Nursing Home Care Act or
7 the Assisted Living and Shared Housing Act.

8 (7) "Facility" or "long term care facility" means a
9 private home, institution, building, residence, or any
10 other place, whether operated for profit or not, or a
11 county home for the infirm and chronically ill operated
12 pursuant to Division 5-21 or 5-22 of the Counties Code, or
13 any similar institution operated by the State of Illinois
14 or a political subdivision thereof, which provides,
15 through its ownership or management, personal care,
16 sheltered care or nursing for 3 or more persons not related
17 to the owner by blood or marriage. The term also includes
18 skilled nursing facilities and intermediate care
19 facilities as defined in Title XVIII and Title XIX of the
20 federal Social Security Act and assisted living
21 establishments and shared housing establishments licensed
22 under the Assisted Living and Shared Housing Act.

23 (8) "Organizational indifference" means that an owner
24 or licensee failed to exercise reasonable care in the
25 hiring, training, supervising, or providing of staff or
26 other related routine health care responsibilities.

1 (e) Nothing contained in this Section shall be deemed to
2 apply to the medical supervision, regulation or control of the
3 remedial care or treatment of residents in a facility conducted
4 for those who rely upon treatment by prayer or spiritual means
5 in accordance with the creed or tenets of any well recognized
6 church or religious denomination and which is licensed in
7 accordance with Section 3-803 of the Nursing Home Care Act.

8 (Source: P.A. 93-301, eff. 1-1-04.)

9 (Text of Section after amendment by P.A. 96-339)

10 Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care
11 Facility Resident.

12 (a) Any person or any owner or licensee of a long term care
13 facility who abuses a long term care facility resident is
14 guilty of a Class 3 felony. Any person or any owner or licensee
15 of a long term care facility who criminally neglects a long
16 term care facility resident is guilty of a Class 4 felony. A
17 person whose criminal neglect of a long term care facility
18 resident results in the resident's death is guilty of a Class 3
19 felony. However, nothing herein shall be deemed to apply to a
20 physician licensed to practice medicine in all its branches or
21 a duly licensed nurse providing care within the scope of his or
22 her professional judgment and within the accepted standards of
23 care within the community. Notwithstanding the provisions of
24 Section 5-4 of this Code, any owner or licensee of a long term
25 care facility, whether an individual, public or private

1 corporation, limited liability company, partnership,
2 unincorporated association, or any other entity doing business
3 in this State, may be prosecuted under this Section if the
4 conduct giving rise to the offense is performed by any agent of
5 the owner or licensee. It shall not be a defense to this
6 Section if the owner or licensee acted with organizational
7 indifference.

8 (b) Notwithstanding the penalties in subsections (a) and
9 (c) and in addition thereto, if a licensee or owner of a long
10 term care facility or his or her employee has caused neglect of
11 a resident, the licensee or owner is guilty of a petty offense.
12 An owner or licensee is guilty under this subsection (b) only
13 if the owner or licensee failed to exercise reasonable care in
14 the hiring, training, supervising or providing of staff or
15 other related routine administrative responsibilities.

16 (c) ~~(Blank) Notwithstanding the penalties in subsections~~
17 ~~(a) and (b) and in addition thereto, if a licensee or owner of~~
18 ~~a long term care facility or his or her employee has caused~~
19 ~~gross neglect of a resident, the licensee or owner is guilty of~~
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22 ~~subsection (c) only if the owner or licensee failed to exercise~~
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25 ~~responsibilities.~~

26 (d) For the purpose of this Section:

1 (1) "Abuse" means intentionally or knowingly causing
2 any physical or mental injury or committing any sexual
3 offense set forth in this Code.

4 (2) "Criminal neglect" means an act whereby a person
5 recklessly (i) performs acts that cause an elderly person's
6 or person with a disability's life to be endangered, health
7 to be injured, or pre-existing physical or mental condition
8 to deteriorate or creates the substantial likelihood of
9 injury or deterioration, or (ii) fails to perform acts that
10 he or she knows or reasonably should know are necessary to
11 maintain or preserve the life or health of an elderly
12 person or person with a disability, and that failure causes
13 the elderly person's or person with a disability's life to
14 be endangered, health to be injured, or pre-existing
15 physical or mental condition to deteriorate or creates the
16 substantial likelihood of injury or deterioration, or
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18 disability.

19 (3) "Neglect" means negligently failing to provide
20 adequate medical or personal care or maintenance, which
21 failure results in physical or mental injury or the
22 deterioration of a physical or mental condition.

23 (4) "Resident" means a person residing in a long term
24 care facility.

25 (5) "Owner" means the person who owns a long term care
26 facility as provided under the Nursing Home Care Act, a

1 facility as provided under the MR/DD Community Care Act, or
2 an assisted living or shared housing establishment under
3 the Assisted Living and Shared Housing Act.

4 (6) "Licensee" means the individual or entity licensed
5 to operate a facility under the Nursing Home Care Act, the
6 MR/DD Community Care Act, or the Assisted Living and Shared
7 Housing Act.

8 (7) "Facility" or "long term care facility" means a
9 private home, institution, building, residence, or any
10 other place, whether operated for profit or not, or a
11 county home for the infirm and chronically ill operated
12 pursuant to Division 5-21 or 5-22 of the Counties Code, or
13 any similar institution operated by the State of Illinois
14 or a political subdivision thereof, which provides,
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17 to the owner by blood or marriage. The term also includes
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19 facilities as defined in Title XVIII and Title XIX of the
20 federal Social Security Act and assisted living
21 establishments and shared housing establishments licensed
22 under the Assisted Living and Shared Housing Act.

23 (8) "Organizational indifference" means that an owner
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3 remedial care or treatment of residents in a facility conducted
4 for those who rely upon treatment by prayer or spiritual means
5 in accordance with the creed or tenets of any well recognized
6 church or religious denomination and which is licensed in
7 accordance with Section 3-803 of the Nursing Home Care Act or
8 Section 3-803 of the MR/DD Community Care Act.

9 (Source: P.A. 96-339, eff. 7-1-10.)

10 Section 95. No acceleration or delay. Where this Act makes
11 changes in a statute that is represented in this Act by text
12 that is not yet or no longer in effect (for example, a Section
13 represented by multiple versions), the use of that text does
14 not accelerate or delay the taking effect of (i) the changes
15 made by this Act or (ii) provisions derived from any other
16 Public Act.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."